

Nuclear Regulatory Commission

§ 76.60

compliance plan, the Director shall consult with the Environmental Protection Agency and solicit the Environmental Protection Agency's written comments on the application.

§ 76.55 Timely renewal.

In any case in which the Corporation has timely filed a sufficient annual application for a certificate of compliance, the existing certificate of compliance or approved compliance plan does not expire until the application for a certificate of compliance has been finally determined by the NRC. For purposes of this rule, a sufficient application is one that addresses all elements of § 76.36.

§ 76.60 Regulatory requirements which apply.

The Nuclear Regulatory Commission will use the following requirements for certification of the Corporation for operation of the gaseous diffusion plants:

(a) The Corporation shall provide for adequate protection of the public health and safety and common defense and security.

(b) The Corporation shall comply with the provisions of this part.

(c) The Corporation shall comply with the applicable provisions of 10 CFR part 19, "Notices, Instructions and Reports To Workers: Inspection and Investigations," with the following modifications:

(1) Civil penalties may not be imposed on the Corporation pursuant to § 19.30 of this chapter except for violations of Section 206 of the Energy Reorganization Act.

(2) The Corporation shall post NRC Form 3 not later than the date of Director's decision on the initial certificate of compliance and/or an initial plan for achieving compliance, during the term of the certificate, and for 30 days following certificate termination.

(d) The Corporation shall comply with the applicable provisions of 10 CFR part 20, "Standards For Protection Against Radiation," with the following modifications:

(1) Civil penalties may not be imposed on the Corporation pursuant to § 20.2401 of this chapter except for violations of section 206 of the Energy Reorganization Act.

(2) The Corporation shall comply with the requirements in this part not later than the date of the Director's decision on the initial certificate of compliance and/or as specified in an approved plan for achieving compliance.

(e) The Corporation shall comply with the applicable provisions of 10 CFR part 21, "Reporting of Defects and Noncompliance," with the following modifications:

(1) The Corporation shall comply with the requirements in §§ 21.6 and 21.21 not later than the date of the Director's decision on the initial certificate of compliance and/or an initial plan for achieving compliance.

(2) Under § 21.31, procurement documents issued by the Corporation after it submits the initial application for a certificate of compliance must specify that the provisions of 10 CFR part 21 apply.

(f) The Corporation shall comply with the applicable provisions of 10 CFR part 26, "Fitness-for-Duty Programs." The requirements of this section apply only if the Corporation elects to engage in activities involving formula quantities of strategic special nuclear material. When applicable, the requirements apply only to the Corporation and personnel carrying out the activities specified in § 26.2(a) (1) through (5).

(g) The Corporation shall comply with the applicable provisions of 10 CFR part 71, "Packaging and Transportation of Radioactive Material."

(h) The Corporation shall comply with the applicable provisions for physical security and material control and accounting as specified in subpart E to this part and contained in 10 CFR part 70, "Domestic Licensing of Special Nuclear Material," part 73, "Physical Protection of Plants and Materials," and part 74, "Material Control and Accounting of Special Nuclear Material." The requirements in these parts address safeguards for three different kinds of nuclear material: Special nuclear material of low strategic significance (Category III), special nuclear material of moderate strategic significance (Category II), and formula quantities of strategic special nuclear material (Category I). The requirements for

Category III material apply to the production of low enriched uranium. The requirements for Category II and Category I material apply only if the Corporation elects to engage in activities that involve these kinds of material and then only to the situations and locations that involve these kinds of material.

(i) The Corporation shall comply with the applicable provisions of 10 CFR part 95, "Security Facility Approval and Safeguarding of National Security Information and Restricted Data," as specified in subpart E to this part provided, however, that civil penalties shall not be imposed on the Corporation pursuant to § 95.61 of this chapter except for violations of Section 206 of the Energy Reorganization Act.

§ 76.62 Issuance of certificate and/or approval of compliance plan.

(a) Upon a finding of compliance with the Commission's regulations for issuance of a certificate and/or approval of a compliance plan, the Director shall issue a written decision explaining the decision. The Director may issue a certificate of compliance covering those areas where the Corporation is in compliance with applicable Commission requirements and approve a compliance plan for the remaining areas, if any, of noncompliance. The Director may impose any appropriate terms and conditions.

(b) The Director shall publish notice of the decision in the FEDERAL REGISTER.

(c) The Corporation, or any person whose interest may be affected and who submitted written comments in response to the FEDERAL REGISTER Notice on the application or compliance plan under § 76.37, or provided oral comments at any meeting held on the application or compliance plan conducted under § 76.39, may file a petition, not to exceed 30 pages, requesting review of the Director's decision. This petition must be filed with the Commission not later than 15 days after publication of the FEDERAL REGISTER notice. Any person described in this paragraph may file a response to any petition for review, not to exceed 30 pages, within 10 days after the filing of the petition. Unless the Commission grants the peti-

tion for review or otherwise acts within 60 days after the publication of the FEDERAL REGISTER notice, the Director's initial decision on the certificate application or compliance plan becomes effective and final. The Commission may adopt, by order, further procedures that, in its judgment, would serve the purpose of review of the Director's decision.

(d) The Commission may adopt, modify, or set aside the findings, conclusions, conditions, or terms in the Director's decision and will state the basis of its action in writing.

§ 76.64 Denial of certificate or compliance plan.

(a) The Director may deny an application for a certificate of compliance or not approve a compliance plan upon a written finding that the application is in noncompliance with one or more of the Commission's requirements for the plant, or that the compliance plan is inadequate to protect the public health and safety or the common defense and security.

(b) The Director shall publish notice of the decision in the FEDERAL REGISTER.

(c) Before a denial of an application for a certificate of compliance, the Director shall advise the Corporation and the Department in writing of any areas of noncompliance with the Commission's regulations and offer the Department or the Corporation an opportunity to submit a proposed compliance plan prepared by the Department regarding the identified areas of noncompliance. The Director shall take this action even if the Department or the Corporation has previously submitted a proposed compliance plan addressing in whole or in part the identified areas of noncompliance.

(d) The Corporation, or any person whose interest may be affected and who submitted written comments in response to the FEDERAL REGISTER notice on the application or compliance plan under § 76.37 or provided oral comments at any meeting held on the application or compliance plan conducted under § 76.39, may file a petition, not to exceed 30 pages, requesting review of the Director's decision. This petition must be filed with the Commission not